

UNITED STATES DISTRICT COURT
DISTRICT OF OHIO

COURT FILE NO.: _____

Amy Cottrell
8017 Township Road 527
Shreve, OH 44676

Plaintiff,

v.

FFPM Carmel Holdings I, LLC
6915 Red Road
Suite 203
Coral, FL 33144

and

Mercantile Adjustment Bureau, LLC
6390 Main Street
Suite 160
Williamsville, NY 14221

Defendant(s).

COMPLAINT

JURY TRIAL DEMANDED

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
2. This action arises out of Defendants repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA”) and out of the invasions of Plaintiff personal and financial privacy by Defendants and its agents in its illegal efforts to collect a consumer debt from Plaintiff.
3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transact business here.

PARTIES

4. Plaintiff Amy Cottrell is a natural person who resides in the City of Shreve, County of Wayne, State of Ohio and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant FFPM Carmel Holdings I, LLC is a collection agency operating from an address of 6915 Red Road, Suite 203, Coral, FL 33144 and is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6).
6. Defendant Mercantile Adjustment Bureau, LLC is a collection agency operating from an address of 6390 Main Street, Williamsville, NY 14221 and is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

7. Sometime prior to 2008, Plaintiff incurred a financial obligation that was primarily for personal, family or household purposes and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5), namely, an account with HSBC, account ending in 0303.
8. On or about October 23, 2008, with The Palmer Firm acting as her agent, Plaintiff reached an agreement with Defendant FFPM Carmel Holdings I, LLC through its agent/attorney Javitch, Block, and Rathbone to settle the debt for \$1,195.62. Under the terms of this agreement, the \$1,195.62 had to be paid by October 31, 2008.
9. On or about October 28, 2008, The Palmer firm mailed via overnight mail a check bearing check number 36066 in the amount of \$1,195.62 to Javitch, Block and Rathbone, the attorney/agent at that time for Defendant FFPM Carmel Holdings I, LLC.
10. On or about January 5, 2010, Defendant Mercantile Adjustment Bureau, LLC sent Plaintiff a letter alleging amounts due on the settled account.

11. The above-described collection communication made to Plaintiff by Defendants and other collection employees employed by Defendant were made in violation of numerous and multiple provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692f(1) and 15 U.S.C. § 1692c(5).
12. The above-detailed conduct by these Defendants of harassing Plaintiffs in an effort to collect this debt was a violation of numerous and multiple provisions of the FDCPA, including but not limited to all of the above mentioned provisions of the FDCPA.
13. Defendants illegal abusive collection communication as more fully described above was the direct and proximate cause of fear and emotional distress on the part of Plaintiff and caused unnecessary personal strain.
14. Plaintiff has suffered actual damages as a result of this illegal collection communication by these Defendants in the form of fear, anger, anxiety, emotional distress, frustration, upset, amongst other negative emotions.

TRIAL BY JURY

15. Plaintiffs are entitled to and hereby respectfully demand a trial by jury on all issues so triable. US Const. amend. 7. Fed.R.Civ.P. 38.

FIRST CAUSE OF ACTION

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
AGAINST ALL DEFENDANTS
15 U.S.C. § 1692 et seq.**

16. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
17. The foregoing acts and omissions of Defendants and their agents constitute numerous and multiple violations of the FDCPA.

18. Defendant Mercantile Adjustment Bureau, LLC's actions violated the FDCPA including, but are not limited to, the following:

(a) Attempting to collect a debt amount that is not expressly authorized by an agreement or permitted by law. 15 U.S.C. § 1692f(1).

19. Defendant FFPM Carmel Holdings I, LLC actions violated the FDCPA including, but are not limited to, the following:

(a) making a false representation of the character, amount, or legal status of any debt. 15 USC 1692(e)(2)(a).

(b) Using a false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer. 15 USC 1692(e)(10).

21. As a proximate result of the above-mentioned violations, Plaintiff has suffered, as herein alleged, actual damages in the form of fear, anger, anxiety, emotional distress, frustration, upset, amongst other negative emotions.

22. As a result of Defendants violations of the Fair Debt Collection Practices Act, Plaintiff is entitled to statutory damages and reasonable attorney's fees and costs from Defendants herein.

23. As a result of each and every Defendants violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3), from Defendants.

SECOND CAUSE OF ACTION

(Breach of Contract – Against FFPM Carmel Holdings I, LLC)

24. Plaintiff incorporates by reference and realleges each and every allegation contained in paragraphs 1 through 23 above as though fully set forth herein.

25. On or around October 23, 2008, an agreement was reached between Plaintiff and Defendant FFPM Carmel Holdings I, LLC through its agent/attorney Javitch, Block, and Rathbone in which FFPM Carmel Holdings I, LLC would consider the Plaintiff's account settled upon the receipt of a payment in the amount of \$1,195.62.

26. Plaintiff has fully performed all conditions, covenants, and promises to be performed under the agreement.

27. Defendant FFPM Carmel Holdings I, LLC breached the contract with Plaintiff by transferring this account to Defendant Mercantile Adjustment Bureau, LLC even though the account was already satisfied by Plaintiff.

28. As a proximate result of the breach, as herein alleged, Plaintiff has been damaged in an amount according to damages proved in this matter.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant:

- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every Defendant and for each Plaintiff;
- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against Defendant.
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant and for Plaintiff;
- for such other and further relief as may be just and proper.

Respectfully submitted,

Dated: December 22, 2010

Vidmar and Hardesty, Ltd.

By: /s/ Christian Hardesty

Christian Hardesty

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